UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/1999/SR.25
14 April 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 25th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 April 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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The meeting was called to order at 3.05 p.m.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)

1. Mrs. ROBINSON (United Nations High Commissioner for Human Rights), informing the Commission on human rights developments in the Federal Republic of Yugoslavia, particularly in and around Kosovo, said that the Special Rapporteur and her own personal representative were currently in Skopje, talking to the authorities, international agencies and refugees to obtain accurate information. Office staff had been redeployed to Skopje, Tirana and Montenegro with the aim of establishing a human rights presence as close as possible to actual developments, consulting institutional partners, gathering information about human rights violations and providing the information gathered to the Commission and other mechanisms. The Governments of Norway and Switzerland had indicated their willingness to support the deployment of additional human rights monitors in Albania, Montenegro and the former Yugoslav Republic of Macedonia to seek to verify allegations of grave human rights violations in Kosovo.

2. The United Nations High Commissioner for Refugees estimated that over 500,000 people had fled from the province of Kosovo, of whom at least 304,000 were in Albania, 122,000 in the former Yugoslav Republic of Macedonia, 59,000 in Montenegro, 24,300 in Bosnia and 7,612 in Turkey. According to Yugoslav Government sources, there were 500,000 in Serbia. The number of internally displaced people within Kosovo was estimated at several hundred thousand. Moreover, Kosovars had faced considerable obstacles in fleeing the province. Preliminary indications were that the Serb authorities had, in some cases, prevented the departure of refugees at the border. It appeared that the borders had since been closed and all movement stopped.

3. Ethnic Albanians said they had been forced to leave their homes at gunpoint. Many women and children had been separated from their menfolk. Most of the Kosovo area was reportedly under Serb arms, the clearance of ethnic Albanians reportedly being systematic, deliberate and methodical. A large number of refugees entering Albania had complained of being stripped of their passports, identity cards, vehicle number plates and other kinds of identifying documents.

4. There were numerous reports of arbitrary and summary executions. On 28 March, the Kosovar Verification Mission of the Organization for Security and Cooperation in Europe (OSCE) had reported the alleged murder of civilians, including women and children, near Orahovac. The bodies of 35 people who had died of gunshot wounds had also reportedly been found next to the Klina-Prizren railway line. On 2 and 3 April, refugees had told of an alleged massacre in Elika Krusa. Investigators from the International Criminal Tribunal for the former Yugoslavia had received numerous reports from refugees of four lorries filled with dead bodies being dumped into mass graves. It was also said that women refugees approaching the Macedonian border were asked by Serb soldiers to pay DM 2,000 in order to cross. If unable to pay, they were taken to a nearby building where they were allegedly raped.

5. Women and children had suffered terribly. There was a rising number of unaccompanied child refugees who were moving away from the border areas. The

United Nations Children's Fund (UNICEF) and the International Committee of the Red Cross (ICRC) were setting up a registration system for such children. She recalled that the situation was not new: cases of mass sexual assault perpetrated against young women and girls in the former Yugoslavia were already well known to the international community. Another major concern was the condition of the refugees' health; the major threat was communicable diseases such as measles and cholera, but many were also weak from exhaustion and lack of food. There were also reliable reports of civilians killed and injured, and of civilian establishments destroyed or damaged, in the course of the ongoing military action.

6. Her Office was remaining in touch with its institutional partners and was continuing to gather information. She would keep the Commission informed of developments in the weeks to come.

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF:

(a) TORTURE AND DETENTION

(b) DISAPPEARANCES AND SUMMARY EXECUTIONS

(c) FREEDOM OF EXPRESSION

(d) INDEPENDENCE OF THE JUDICIARY, ADMINISTRATION OF JUSTICE, IMPUNITY

(e) RELIGIOUS INTOLERANCE

(f) STATES OF EMERGENCY

(g) CONSCIENTIOUS OBJECTION TO MILITARY SERVICE (agenda item 11) (continued)

(E/CN.4/1999/39 and Add.1, 53-55, 56 and Add.1-2, 57, 58 and Add.1-2, 59, 60, 61 and Add.1, 62 and Add.1 and Corr.1 and Add.2, 63 and Add.1-4, 64 and Add.1-2, 65, 111 and 128; E/CN.4/1999/NGO/21-26, 30, 31, 36, 37, 43, 50-52 and 62; A/53/283 and Corr.1 and 501; A/RES/53/139; E/CN.4/Sub.2/1998/19; E/CN.4/Sub.2/1998/SR.24, 27, 28 and 35)

7. Mr. VARGAS PIZARRO (Costa Rica), Chairman-Rapporteur of the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, introduced the working group's report (E/CN.4/1999/59), drawing attention to paragraph 22 in particular. While much had been achieved it had been decided not to continue the discussions into the permitted third week, since some points would not have been settled in any case. There were eight articles that still remained to be approved. The last meeting, which had been attended by some 58 delegations and a number of non-governmental organization (NGOs), had been intense, but a spirit of cooperation and good faith had reigned. There was, every hope that the draft optional protocol would be completed by the end of the year.

8. Mr. TOSEVSKI (Chairman-Rapporteur of the Working Group on Enforced or Involuntary Disappearances), introducing his Working Group's report and those on visits by its members to Turkey and Yemen (E/CN.4/1999/62 and Add.1 and 2), said that no obstacles had been encountered in either of the countries visited when receiving representatives of NGOs, witnesses and relatives of missing persons. Since the adoption of the report, specific information had been received from the Governments of Algeria, Angola, Brazil, China, Colombia, Guatemala, India, Indonesia, Malaysia, Mexico, Nepal, Peru, the Philippines, Saudia Arabia, the Sudan, Sri Lanka and the Syrian Arab Republic.

9. Impunity was the root cause of enforced disappearance, as well as a major obstacle to clarifying past cases, and the Working Group urged all States to comply with article 18 of the Declaration on the Protection of All Persons from Enforced Disappearance, which established that perpetrators of enforced disappearance were not exempt from criminal proceedings or sanction. It also urged that all detainees should have the right to prompt access to their families and to lawyers and doctors of their own choice and that registers should be maintained, places of detention inspected regularly and prison personnel given human rights training.

10. If the Working Group's mandate was to be strengthened, it would have to be provided with adequate secretarial staff, so that it could analyse the incidence of disappearances and monitor States' compliance with the Declaration. In that context he drew attention to paragraphs 7 and 8 of the report.

11. Ms. JAHANGIR (Special Rapporteur on extrajudicial, summary or arbitrary executions), introducing her report (E/CN.4/1999/39 and Add.1), said that, in addition to restricted resources, she had had great difficulty in securing the cooperation of several Member States. She urged those States which she wished to visit to expedite the process of making the necessary arrangements.

12. One redeeming aspect of the sad phenomenon of extrajudicial killing was the alertness of the media in large areas of the world in reporting on the issue, which had raised the level of universal concern. Unfortunately, that concern was mostly confined to people who played little part in decision-making. She urged NGOs to play a more active part, not only in collecting information but in mobilizing public opinion and communicating it to the decision-makers. The timing of action by the international community was also crucial, especially when major incidents began to develop.

13. The worst excesses naturally occurred under despotic regimes. Autocracy invariably led to a polarization of society, with internal conflicts culminating in large-scale killings. The situation in Colombia illustrated the urgent need for States to take steps to bring offenders to justice and end impunity. Since she also had the responsibility of communicating early warnings to prevent bloodshed, she wished to point out that reports from Myanmar suggested that rising tensions there could take a violent turn.

14. There were also judicially sanctioned arbitrary killings. Special courts were established where the due process of the law was ignored and extreme punishments prescribed. In some countries, ordinary courts also sanctified cruel traditions. The custom of killing women on suspicion of

immorality had received partial sanction in some decisions by the Pakistani courts. Superior courts had legitimized "honour killing" in the name of religion. Some countries had sought to change that situation, however: Turkey through legislation and Jordan by public criticism at the highest levels.

15. There was a growing tendency to threaten or kill peace activists, lawyers, trade union leaders and human rights defenders as well as abortionists and sexually differently oriented people. The appalling murder of Rosemary Nelson, was a case in point.

16. Research showed that capital punishment had no effect on the crime rate, but many Governments were still opposed to its total abolition. She urged such Governments to abolish the death penalty for children under the age of 18 at the time of the commission of the offence, to repeal any mandatory death penalties and to exempt from capital punishment the infirm, the old, the mentally handicapped and pregnant women. Moreover, if it had to be retained, the death penalty should be restricted to the most heinous crimes.

17. Mr. DECAZES DE GLUCKSBIERG (Observer for the Order of Malta) said that religious intolerance was rife in many countries. In some cases, whole communities continued to be persecuted or discriminated against on religious grounds. In most cases, religious intolerance was not openly avowed, however, tradition, State security, the rights of others and even moral principles were invoked to justify it. Education to promote tolerance was in its infancy and there was still no international instrument aimed at eradicating religious intolerance.

18. The Order of Malta proposed the following action: Governments, NGOs and other bodies representing civil society should discuss with the Special Rapporteur the contents of his report (E/CN.4/1999/58 and Add.1 and 2) and provide him with more comprehensive documentation; in his next report, the Special Rapporteur should include a summary of incidents or practices in individual countries that called for analysis or on-site investigation; additional action should be taken by the General Assembly and the Commission to prevent incidents and measures that were incompatible with the provisions of General Assembly resolution 36/55; and education for religious tolerance should be given strong support.

19. Mr. NGUYEN THANH CHAU (Observer for Viet Nam) said that his Government had consistently pursued a policy of full respect for the religious beliefs of the Vietnamese people, beliefs which had recently been reaffirmed as a legitimate right and a spiritual need for part of the population. Religious activities, rituals and festivals received support from the Government and local authorities. There were six main religions - Buddhism, Catholicism, Protestantism, Islam, Cao Dai and Hoa Hao - with almost 20,000 places of worship and very many clergy.

20. Pursuant to the constitutional guarantee of religious rights and freedoms, the Government had enacted legislation concerning the equality of all religions, the protection of places of worship, the publication of prayer-books and documents, and religious training. Under a 1998 amnesty, many members of the clergy had been released from detention.

21. Viet Nam was one of 48 States Members of the United Nations that had responded to the request by the Special Rapporteur on religious intolerance for the establishment of a compendium of national enactments on or relating to freedom of religion and belief, and one of 77 States responding to his questionnaire on problems relating to freedom of religion and belief from the standpoint of educational curricula and textbooks.

22. In October 1998, the Special Rapporteur had visited Viet Nam. He had met high-ranking officials and members of the clergy and visited places of worship and religious training establishments. Government officials had assured him that nobody was arrested, detained or tried in Viet Nam for religious beliefs or activities. Religious leaders had confirmed that they enjoyed freedom of religion, that places of worship were being built or renovated, that religious publications and training were permitted, and that the clergy enjoyed freedom of movement. The Special Rapporteur had been surprised at the number of churches and pagodas in Viet Nam and his visit had been an impressive occasion for hosts and guests alike.

23. Mr. RHENAN SEGURA (Observer for Costa Rica), having commended the report by the working group on the draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (E/CN.4/1999/59) and the efforts of national delegations to produce a consensus text, said that his delegation intended to submit a draft resolution to the Commission calling on the working group to continue its work. Convinced that the chairmanship would be strengthened by placing it in the hands of a single person, his Government proposed to initiate consultations aimed at entrusting the office to Ms. Elizabeth Odio Benito, Vice-President of Costa Rica, former Vice-President of the International Criminal Tribunal for the former Yugoslavia, and Chairman of the working group during the first two years of its proceedings.

24. His Government also intended to conduct informal consultations with a view to ensuring that the last few articles of the draft optional protocol were adopted at the autumn 1999 session of the working group. That would require a strengthening of the spirit of cooperation and mutual understanding among the delegations. He urged all States members of the Commission to support the draft resolution concerning the renewal of the mandate of the working group.

25. Monsignor BERTELLO (Observer for the Holy See) said he noted that the Special Rapporteur on religious intolerance had sent 63 communications, including 4 urgent appeals, to 46 States (E/CN.4/1999/58). Some of the incidents involved, ranging from imprisonment to destruction of places of worship and murder, had been reported in the international press. Two days previously, a grenade had killed several dozen people in a church in East Timor.

26. The sombre picture that emerged from the report demonstrated that respect for the right to freedom of religion and belief, guaranteed in article 18 of the Universal Declaration of Human Rights, was far from universal. In January 1999, His Holiness Pope John Paul II had expressed

concern at the many violations of religious freedom worldwide. Such restrictions were incompatible with human dignity and a flagrant injustice that prevented people from fulfilling their deepest aspirations.

27. The right to religious freedom should be guaranteed by national legislation and by special mechanisms and procedures. While most modern constitutions proscribed unequal treatment of citizens on religious grounds, their solemn affirmations had proved difficult to implement in practice. Where a State accorded one religion a special status, it was important that it should guarantee individual freedom of conscience and the right to enjoy such freedom in private and within the person's own community. Religious freedom would then constitute a guarantee for other civil liberties and become a factor conducive to peace and unity.

28. Mr. DEMBRI (Observer for Algeria) said that his authorities had cooperated with all human rights treaty bodies, special rapporteurs and working groups. They had responded to the seven allegations transmitted by the Special Rapporteur on torture during the period under review. However, the Special Rapporteur's report (E/CN.4/1999/61, para. 32) referred to thousands of complaints by detainees, a discrepancy that undermined its credibility. Moreover, Algeria's responses were misrepresented. A person convicted of collusion with terrorist groups had been described as "a lawyer specialized in human rights" (para. 40). Whole paragraphs were lifted from an NGO document.

29. With regard to the Special Rapporteur's allegations of the impunity of torturers, the Committee against Torture, after examining Algeria's latest report, had noted with satisfaction the adoption of new legislative measures including the definition of an offence of torture and the prosecution of certain offences that had been brought to the Committee's attention.

30. Algeria had transmitted a note verbale containing its observations on the report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1999/62). The Group's identification system gave an exaggerated impression of the number of allegations. Many cases to which Algeria had responded were retransmitted without comment by the Working Group. Cases of deceased or wanted persons or of persons undergoing legal proceedings were presented as disappearances. Many responses by the Algerian Government had not been taken into account because of a computer problem at the Office of the High Commissioner for Human Rights. Despite those anomalies, his authorities continued to cooperate with the Working Group. Cases of disappeared persons were referred to the courts, the Mediator of the Republic, the Human Rights Observatory and the recently established Ministry of Interior reception centres throughout the country.

31. Ms. DANAILOV (Observer for Switzerland) said that the negotiations on a draft optional protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment were going through a difficult phase. Her delegation appealed to all those intending to participate in the autumn 1999 session of the working group to avoid adopting entrenched positions and to approach the discussions in an open and constructive spirit. The purpose of the draft optional protocol was not to condemn States but to

give them technical assistance in preventing torture. It provided for inspections of places of detention similar to those already accepted by all States in the areas of military security, nuclear energy or prisoners of war.

32. The report of the Working Group on Arbitrary Detentions (E/CN.4/1999/63), referring to a visit to China in October 1997, mentioned an incident that had occurred in December 1991 in Drapchi Prison in Lhasa. Her Government had intervened repeatedly on behalf of the prisoner concerned but to no avail.

33. It was regrettable that the Working Group on Enforced or Involuntary Disappearances had been unable to make recommendations on the feasibility of adopting the draft international convention on the protection of all persons from enforced disappearance (E/CN.4/Sub.2/1998/19). In the circumstances, the Commission should consider initiating consultations among all interested parties and asking the Sub-Commission on Prevention of Discrimination and Protection of Minorities or the Commission on Crime Prevention and Criminal Justice to make recommendations to it in the light of the comments received.

34. Her delegation deeply regretted the fact that 11 countries had failed to cooperate in recent years with the Special Rapporteur on extrajudicial, summary or arbitrary executions. The Special Rapporteur should also be permitted to visit the countries where she wished to investigate the situation on the spot. In that connection, she noted that Turkey had recently agreed to a visit.

35. With regard to religious intolerance, her delegation was particularly concerned about the situation in Afghanistan and China, the subjection of religious communities to State control and violence against religious minorities by public authorities and other actors, for example in Myanmar and the Islamic Republic of Iran.

36. Mr. TANDAR (Observer for Afghanistan) said that several thousand civilians in Mazar-i-Sharif and Bamian had been summarily executed by the Taliban after the capture of those areas in summer 1998. Most of the victims had belonged to the Hazara and Uzbek minorities. The massacres had been accompanied by violent manifestations of religious intolerance and Mullah Niazi had announced that the Hazara had three choices: to convert to Sunni Islam, to leave Afghanistan or to be killed.

37. Five hundred Hazara community leaders in the central region had been arrested and sent to prison in Kabul. Two thousand Hazara families had been expelled from their villages and were living in the mountains.

38. According to Amnesty International, over 200 Afghan intellectuals, community leaders and officials had been arrested and tortured in the areas under Taliban control. In some cases, their children had also been arrested. Some detainees had since been released but over 100 were still in custody.

39. Since assuming power in Kabul in September 1997, the Taliban had dissolved all voluntary associations and muzzled the independent press. Afghan intellectuals and writers who had sought refuge in Pakistan had been

murdered and nobody had yet been arrested in that connection. Taliban militias used specially designed cables to dispense rough justice without reference to any authority.

40. Mr. KHORRAM (Observer for the Islamic Republic of Iran) said that his Government had taken practical steps to provide a favourable environment for the full realization of all human rights, including freedom of opinion and expression. The mass media were flourishing since, under the press law, all qualified individuals could publish material freely. Cultural development and the promotion of a culture of tolerance had contributed to a steady growth in the quality and quantity of publications. Over 1,155 periodicals and about 100 newspapers provided a forum for exchanges of ideas on politics, culture, society, art and science.

41. During the recent local council elections, the various political factions and the mass media had played a major role in presenting different choices to the people, thus encouraging a high turnout.

42. Mr. DO NASCIMENTO PEDRO (Observer for Brazil) said that his Government had taken note of the many important observations and suggestions made in the documents submitted under agenda item 11 and would bear them in mind in its decision-making. Both the Government and organized civil society were determined to remedy existing shortcomings. For example, an Alternative Sentences Act had just been promulgated. Carandiru Prison was to be closed down and replaced by an educational and cultural centre. New prison facilities would comply with international standards.

43. His Government also intended to analyse structures that were conducive to violence and, to that end, was developing contacts with countries that had experience in that area as well as with the Office of the High Commissioner for Human Rights. He assured the special rapporteurs and working groups that his authorities would supply additional information on the issues they had raised, particularly with regard to specific cases.

44. Mr. SUNGAR (Observer for Turkey), referring to the report of the Working Group on Enforced or Involuntary Disappearances on the visit to Turkey by two of its members (E/CN.4/1999/62/Add.2), said that their visit to the Special Bureau to Investigate Allegations concerning Missing Persons was worth emphasizing since it had established a direct line of communication for the first time. The report testified to the fact that almost half the cases of disappearance transmitted by the Working Group had been clarified by his Government; bringing the other half into the limelight had proved difficult since most were fabricated cases based on false identities.

45. His Government had never denied the existence of enforced or involuntary disappearances in Turkey, but they should not be assessed as a massive or systematic practice. In that connection, the practice of voluntary or involuntary disappearances by the Kurdish Workers' Party (PKK), either as a way of punishment or as a method of conscription, had been mentioned. While the report acknowledged that Turkey's human rights problems were very much related to separatist terrorism, it was rather simplistic to describe the campaign against terrorism as a "conflict between the Government and the PKK". The report's recommendations would, however, be assessed very positively by

his authorities. With regard to the last paragraph of the report, he wished to inform the Commission that Turkish NGOs were already taking part in the decision-making process of the High Council for Human Rights.

46. The report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment (E/CN.4/1999/61 and Add.1) was, however, a source of disappointment to his Government, containing as it did a number of allegations and assessments which were unacceptable. His delegation categorically rejected the allegation that torture was widespread in Turkey and noted that certain circles in Western countries seemed to be prejudiced against Turkey, as had been made clear by the statement of the representative of Germany on behalf of the European Union.

47. The main thrust of the report was, indeed, prejudice. Referring to unknown non-governmental sources, it stated that beating was common within the Turkish family, in schools and in the armed forces, and torture was thus considered normal in Turkish society. Making such generalizations on the basis of a few isolated incidents could lead to grave misunderstandings and long-term misperceptions. It might be similary concluded that British society was violent on the basis of the behaviour of British soccer hooligans. That kind of assessment should have no place in a serious report to the Commission on Human Rights.

48. Ms. GEGA (Observer for Albania), referring to the surprising statement in the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1999/39/Add.1, para. 8) that there had been no individual cases upon which she could act because of the insufficiency in information received, said that the Albanian authorities had received no notification from the Special Rapporteur of any individual cases she wished to investigate. She should either have verified the authenticity of the allegations received or refrained from mentioning them. Consequently, her delegation requested the Special Rapporteur to delete from her report the paragraphs (8 and 9) referring to Albania.

49. Turning to the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (E/CN.4/1999/61), she said that the cases reported regarding Albania in paragraphs 11 and 31 dated from 1995 and 1996.

50. Mr. MISIC (Observer for Bosnia and Herzegovina) said that, more than three years after the signing of the Dayton Peace Agreement, there were still large numbers of persons missing and the grim reality was that most of them were no longer alive. Solving the problems relating to missing persons was one of the most critical human rights issues in Bosnia and Herzegovina, and remained crucial to the process of reconciliation.

51. In 1998, 2,560 bodies had been exhumed from mass graves, almost half of which had been identified. Many of those killed had belonged to the so-called protected categories - children, the elderly, invalids, medical personnel, prisoners of war and the handicapped. The exhumation process was a costly one and Bosnia and Herzegovina did not have enough forensic and anthropological scientists; its equipment for autopsies and identification was obsolete, and there was a lack of morgue facilities.

52. The authorities in Bosnia and Herzegovina fully supported efforts that would reveal the truth regarding the fate of every missing person. All relevant information should be unconditionally exchanged by all the various institutions involved. Every victim deserved to be buried in accordance with the wishes of his or her family. The continued help of the international community was crucial.

53. Mr. AGURTSOU (Observer for Belarus) said that his country was one of the few in the post-Soviet region in which not a single drop of blood had been spilt in social, national or religious conflicts and in which peace and social harmony had been preserved. There was no torture, no disappearances and no arbitrary executions. There was freedom of expression and belief, both of which were guaranteed by the Constitution.

54. The judiciary was independent of the legislative and executive powers, and the procedure by which the President appointed judges ensured that they were free from the influence of local government and self-government bodies and the influence of social groups and individuals. There was a constant increase in the number of citizens claiming protection for their constitutional rights and freedoms: in 1997 some 2,000 citizens had lodged complaints with the courts against State officials, and 67 per cent of the complaints had been recognized as valid.

55. Ms. STEINDLER (Transnational Radical Party) said that, in Tunisia, repression had acquired some insidious forms such as persistent arbitrary detentions, extended terms of police surveillance, and serious limitations on the freedom of movement. Such practices were deliberately ignored by the media which were totally loyal to the Government. There was a stark contrast between the official position of the Tunisian Government on the international stage and the practices of a single, dominant and intolerant political party.

56. The judiciary in Tunisia was totally subservient to the Executive and there was no respect for the right to a fair trial. The Committee against Torture had stated that torture and cruel and degrading treatment was practised by the Tunisian security and police forces, in some cases resulting in deaths. The National Council for Freedoms was not legally recognized and human rights defenders continued to be targeted by the Government, whether they lived in Tunisia or abroad. She gave examples of a number of persons of standing who had been exiled, deprived of civil and political rights, imprisoned or charged with incredible offences.

57. Mr. LITTMAN (Association for World Education), referring to his organization's written statement (E/CN.4/1999/NGO/43), said that, on 14 February 1999, Ayatollah Sana'i had said that the Islamic Republic of Iran was "serious and determined in the execution of God's order" and that "the idea of Rushdie's annihilation" was "a living idea looking for an appropriate opportunity".

58. The "Rushdie syndrome" whereby a religious authority passed an arbitrary death sentence based upon its interpretation of religious laws or traditions had spread to other faiths throughout the world, and it was high time that the Commission condemned all calls to kill in the name of God and religion. His organization thus called upon the Commission to adopt a firm resolution on the

issue and make it quite clear that no authority, religious or secular, was entitled arbitrarily to condemn a person to death by decree for "heresy", "apostasy", a spoken opinion or a book.

59. Ms. PAYT (Christian Solidarity International) said she wished to read to the Commission a message from Senator Sam Brownback, a member of the Foreign Relations Committee of the United States Senate. More than 1 billion people remained under the dominion of States which continued to implement policies of totalitarian atheism, among them Chinese Christians, Tibetan Buddhists, North Korean Christians, Jews in eastern Europe and Muslims in the former Yugoslavia. Their predicament had inspired a grass-roots movement in the United States of America in defence of religious liberty.

60. The International Religious Freedom Act of 1998, one of the first legislative achievements of that movement, was designed to support international instruments and bolster religious freedom. It was particularly important in that it challenged the practice of State-sponsored persecution by helping individuals and small religious communities to stand up to the security forces of hostile Governments.

61. Mr. ROSSI (International Association for Religious Freedom) said that there was a great need for education for tolerance, mutual respect and peaceful coexistence between people belonging to different religions. Even more than the schools, it was the great religions themselves which should be playing the key role in education for tolerance.

62. Unfortunately, the religious tradition which regarded apostasy as a crime punishable by death was the basis for Islamic extremists killing innocent people in many countries of the world. That tradition had even been supported and defended during the seminar on "Enriching the Universality of Human Rights: Islamic perspectives on the Universal Declaration of Human Rights", held at the United Nations Office in Geneva in November 1998.

63. While Muslim participants had stated that Islamic law was almost completely in harmony with the rights and freedoms proclaimed in the Universal Declaration of Human Rights, the Seminar had made it quite clear that Islamic law (the Shariah) was at variance with and even in opposition to certain provisions of international law such as those which concerned the freedom to change one's religion. Under Islamic law, a Muslim who changed his religion must be punished by death. However, a few experts attending the Seminar had expressed a contrary opinion.

64. Mr. Bencheikh, the Mufti of Marseille, had maintained that the death penalty for apostasy from Islam was absolutely contrary to the teachings of the Koran and the practice of the Prophet. It was based on a Hadith by which the Prophet reportedly said: "Whoever changes his religion, kill him." The Mufti of Marseille refuted that Hadith, however, by arguing that it was not certain, because it had not been unanimously transmitted; that it was in contrast with the practice of the Prophet, in whose time no one had been put to death for having left the faith; and that it contradicted clear and categorical verses of the Koran which spoke explicitly of the freedom of religion.

65. Other Muslim jurists shared his view and were campaigning for an Islam that was more faithful to the great principles of the Koran and more respectful of human dignity. The international community should help Muslims to free themselves from intolerant traditions which provided a distorted image of their religion, and should encourage them to rediscover the true Islam as a religion of tolerance and freedom.

66. Mr. JACOB (Pax Romana) said, with reference to serious incidents of organized violence against religious minorities in various countries, that it was most disturbing that countries such as India, Viet Nam and Pakistan were not taking the appropriate steps to deal with such situations. Incidents in India such as the demolition of the Babri mosque, the killing of an Australian missionary and his two sons and the harassment of the Christian Dang group should not be allowed to happen. It was regrettable that the Special Rapporteur on religious intolerance had not been allowed to operate properly in Viet Nam during his visit in October 1998; the Government of that country should implement his recommendations and remove religious intolerance shown towards Hoa Hao Buddhists and Christians.

67. There had been repeated incidents of organized violence against religious and sectarian minorities in Pakistan, where a political system based on religious apartheid could hardly be expected to nurture a culture of tolerance. The discriminatory electoral system provided legitimacy for other discriminatory laws. Successive Governments in Pakistan had failed to investigate cases of misuse of the infamous blasphemy laws. There should be no more sacrifices like that of Bishop John Joseph, an ardent human rights defender and chairman of Pakistan's National Commission of Justice and Peace, who had taken his own life to protest at the death sentence passed on a Christian on the basis of unsubstantiated allegations.

68. Ms. BARNES de CARLOTTO (International Movement for Fraternal Union among Races and Peoples) said that the efforts of the Grandmothers of the Plaza de Mayo, had resulted in the arrest of two former Argentine military dictators and had broken the silence on the part of those responsible for the systematic kidnapping of children of disappeared persons during the period of military dictatorship. Those events were at last being brought to light despite the existence of legislation that granted impunity to members of the armed forces and their accomplices. Investigation of those crimes against humanity had led to the opening of cases in a number of European countries whose nationals had disappeared in Argentina, and she invited all other States that had had citizens disappear in Argentina to take similar action.

69. Her organization wished to inform the Government of Argentina that the matter was not closed once the kidnapped children discovered their true identities. A support system was needed to help the victims resolve all the questions relating to their identity in a satisfactory manner. The attendant social consequences of that tragedy must also be addressed by increasing the staff of the National Genetic Data Bank and providing the facility with resources to function adequately. The Government should also participate in the development and dissemination of information and publicity on the work being done in that area.

70. Mr. BRODY (Human Rights Watch) said that one of the key tools for ending impunity for human rights abuses was the establishment of a universal jurisdiction that would bring the perpetrators of crimes against humanity to justice. The international criminal tribunals established for Rwanda and the former Yugoslavia and the efforts to bring General Pinochet to justice were all positive steps in that direction. Yet many Governments continued to harbour and refuse to extradite persons accused of human rights violations. His organization called on those Governments to meet their international obligations and bring those individuals to justice or extradite them so that they could be given a fair trial.

71. His organization had been shocked at the recent murder of Rosemary Nelson, a prominent human rights defender in Northern Ireland, despite the appeal made to the United Kingdom Government by the Special Rapporteur on the independence of judges and lawyers that it should ensure her safety in view of the death threats she had received. The Commission should support the Special Rapporteur's call for an independent inquiry into Ms. Nelson's murder and the implementation of the recommendations made in his 1998 report.

72. The persistence of enforced disappearances throughout the world pointed to the need for an international convention to deal with that phenomenon, and he urged the Commission to establish an inter-sessional working group to consider the draft text on that subject (E/CN.4/Sub.2/1998/19).

73. Lastly, he expressed concern about the condition of persons in detention in the United States of America, where reforms were needed to address the question of police impunity. He urged the Commission to call for the abolition of the death penalty and condemn human rights violations associated with capital punishment in that country.

74. Ms. RISHMAWI (International Commission of Jurists) urged those Governments that had not yet responded to the request for cooperation by the Special Rapporteur on the independence of judges and lawyers to do so, as there was a continued need to protect judges and lawyers throughout the world from harassment, physical attack and murder. The authority of the judiciary in many countries was undermined by the immunity from prosecution for human rights violations granted to State officials. Exceptional systems of justice or military courts that tried civilians also undermined judicial authority and independence, particularly when the identity of the judge, prosecutor or witnesses was concealed from the defendant.

75. Lack of job security or public attacks on the judiciary by the media in other countries affected the independence of judges, while public confidence in the judiciary was eroded in many other countries by corrupt practices. The dismantling of the Egyptian Bar Association was a source of serious concern, as was the arrest in the Sudan of lawyers who did not support the Government-backed Bar Association.

76. She called on the Government of the United Kingdom to investigate the murder of Rosemary Nelson and to order a judicial inquiry into the wider issue of the intimidation of defence lawyers by the police in Northern Ireland.

77. The harassment of human rights lawyers in many countries of Asia and Africa and in some countries of the former Soviet Union persisted. She expressed support for the Special Rapporteur on the independence of judges and lawyers concerning the challenge to his immunity before the Malaysian courts and looked forward to the advisory opinion to be issued in the matter by the International Court of Justice.

78. Ms. GENEFKE (International Rehabilitation Council for Torture Victims) said that the impunity of torturers had an adverse effect on the rehabilitation of their victims. Memories of the humiliations suffered frequently interfered with torture victims' ability to enjoy or experience aspects of daily life. Such psychological interference was deliberate, for the torturers sought to imprint their victims with feelings of shame and guilt that would haunt them for the rest of their lives. When torturers were allowed to move with impunity in the same society as their former victims, the victims were made to feel that they were suffering an injustice long after the actual torture was ended.

79. Recent developments in the case of General Pinochet had given hope to thousands of torture victims around the world, and her organization saw the Pinochet case as a great victory for the Convention against Torture, and Other Cruel, Inhuman and Degrading Treatment or Punishment. She called on the Member States to increase their financial support for the United Nations Voluntary Fund for Victims of Torture.

80. Ms. LACROIX (World Organization Against Torture) said that notwithstanding the Commission's appeals to the Sudanese Government in its resolution 1998/67, torture, extrajudicial killings and enforced disappearances were still extensively practised in that country. In Bahrain, thousands of persons had been arrested since 1994 under the State Security Act of 1974, which authorized administrative detention without trial for up to three years. The few individuals whose cases had come before the courts had been tried under conditions that reflected a failure to respect their legal rights.

81. The recent capture of Abdullah Öcalan, leader of the Kurdistan Workers' Party (PKK) had led to the arbitrary arrest by the Turkish authorities of at least 3,000 persons, and the police had conducted violent round-ups and sequestered several offices of the pro-Kurd political party, HADEP. Her organization condemned those actions as well as violent acts perpetrated by PKK members against its opponents, which could not, however, serve as justification for violence by the Turkish armed forces or police.

82. At the Commission's fifty-fourth session, the representative of Colombia had assured her organization that everything possible would be done to identify and prosecute the murderers of a leading member of her organization. Although some arrests had been made, it appeared that those who had planned the crime had not been disturbed, a scenario that was all too familiar. In January 1999, peace talks had been initiated between the Colombian Government and the Revolutionary Armed Forces of Colombia (FARC). While she hoped that that initiative would reduce tension in the country, the

political negotiations should not work to the detriment of justice, since impunity had a long-term destabilizing effect. All crimes, whether committed by government forces, paramilitary organizations or insurgent movements, must be thoroughly investigated and fair trials held.

83. Ms. HSIN (International Federation of Human Rights Leagues) read out a statement by Ms. Ding Zilin, a Chinese intellectual and mother of a victim of the Tiananmen Square massacre, calling on the Chinese Government to reconsider its attitude towards the events of 4 June 1989 and urging Western Governments that wished to engage in dialogue with China to table a resolution in the Commission critical of China's human rights record.

84. Mr. VO VAN AI (International Federation of Human Rights Leagues) said he shared the concerns expressed by the Special Rapporteur on religious intolerance in his report regarding violations of religious freedom in Viet Nam (E/CN.4/1999/58/Add.2) and called upon the Vietnamese to implement the recommendations contained in the report.

85. He was also concerned by the persistent violations of civil and political rights in Tunisia and particularly by the case of the Vice-President of his organization's affiliated league, who had begun serving a three-year sentence in 1997 for his beliefs. The Commission should urge the Tunisian Government to release the individual in question and cease harassing his family, and should invite the Special Rapporteurs on the right to freedom of opinion and expression, on torture and on the independence of judges and lawyers to study that situation.

86. He expressed deep concern at violations of the administration of justice in Peru. A fact-finding mission despatched by his organization had confirmed that the independence and impartiality of judges was not guaranteed and that judges issuing rulings unfavourable to certain power sectors were removed from office. The Commission should invite the Peruvian Government to implement the recommendations of the various United Nations human rights bodies regarding the independence of the judiciary.

87. Lastly, he called upon the Working Group on Arbitrary Detention to investigate the arrest of some 180 militants in Bhutan, most of them Buddhist monks, on the charge of "anti-national activities".

88. Mr. REICH (Freedom House) said that his organization's annual survey of press freedom reported the lowest level in five years, two notable examples of the systematic suppression of the right of freedom of expression being Cuba and China.

89. Mr. ASSAD (Freedom House) described the persecution of Coptic Christians in Egypt and noted also that China was intensifying its persecution of Christians. The forceable conversion to Islam of Christians and Animists in the Sudan was contributing to the religion-based civil war in that country. Religious persecution in the Sudan was the most brutal in the world.

90. India was characterized by an escalating pattern of violence which targeted Christians, Muslims and Sikh. Indonesia, which shared with India a long tradition of tolerance, was also marked by an epidemic of religious violence, including attacks on members of the moderate Muslim majority who supported religious tolerance.

91. Viet Nam persecuted Catholic priests and monks as well as Protestants in the tribal areas, and much of the independent Buddhist leadership there was under some form of arrest.

92. He commended the work of the Special Rapporteur on religious intolerance for his work on Viet Nam and recommended that he should visit Egypt, India, Indonesia and the Sudan.

93. Ms. HARRY (International PEN) said that non-custodial punishment was increasingly being used by Governments to silence their critics. In Turkey, many laws abridging the right to freedom of expression were responsible for the imprisonment or prosecution of writers and journalists, while heavy fines made the cost of free speech prohibitive. In Bulgaria, over 200 trials had been instituted against journalists in the past two years, chiefly for allegations of libelling or insulting public officials. In Serbia, a new public information law imposed penalties on publishers, editors and broadcasters who criticized the Government. Huge fines had been levied with a view to putting out of business newspaper editors who refused to toe the Government line. Such legislation was a form of harassment that could be as effective as imprisonment. International PEN did not, of course, oppose laws protecting individuals from slander or libel, but such cases properly belonged in the civil courts. She called upon the Special Rapporteur on the right to freedom of opinion and expression to report on suppression of that right by means other than physical restraint and urged that the Special Rapporteur's mandate should be renewed.

94. Ms. GARCES (American Association of Jurists) said she supported the work of the independent expert on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms but was concerned that the draft basic principles and guidelines on that subject should clearly stipulate that the right to reparation covered victims of transnational or transborder violations of human rights, examples of which could be found in her organization's written statement (E/CN.4/1999/NGO/3). In that connection, a parallel could be drawn between the bombing by the United States of America of Panama in 1989 and the current bombing of Yugoslavia, which violated the Protocol Additional to the Geneva Conventions of 1949 (Protocol I).

95. The text of the draft international convention on the protection of all persons from enforced disappearance (E/CN.4/Sub.2/1998/19) required thorough revision so as not to leave any loopholes that might promote impunity.

The meeting rose at 6 p.m.